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Superlawyer on The Fast Track

Ex-CIA Counsel Mitchell Rogovin
Now Battles for John Anderson's Ballots

By Jacqueline Trescott

"Hiring Mitchell Rogovin was perhaps the best move I made," says former CIA chief William Colby.

"He's smart, he's a quick study. In addition to being a good lawyer, Mitchell is also endowed with good political sense," says Mike McLeod, the campaign manager for John Anderson, who has hired Rogovin to get his name on all the states' ballots.

"He's the next Edward Bennett Williams," says Joseph Goulden, the author of "The Superlawyers."

Rogovin doesn't feel quite comfortable with all the attempts to pigeonhole him. Talk about the heir apparentcy to the gilded world and fluorescent reputations of Lloyd Cutler, Clark Clifford and Williams, and you get sighs of discomfort. Talk about the praise and you get poised evasion. Talk about the controversy that Mitchell Rogovin always seems to leave in his wake and he offers a quick Bronx grin. In his way—and his strain tends to wallow in detachment—he likes the attention.

"Washington is an extraordinary city for a lawyer," he says. "My theory is that if you sell shoes in Washington, the size of the feet are the same as in Peoria. But the legal problems here are distinctive. They are very exciting, at least I find them so." This is Mitchell Rogovin, one of the city's troubleshooting lawyers—and some might say troubled—on an easy morning, a symphony oozing from a stereo perched amid a fortress of books and photos, his trademark pipe mildly erupting.

Excitement often translates into winning, headlines, six-figure fees, notoriety, tension, and the power that periodically leads the town's observers to think the lawyers are running everything. Much of that formula makes Rogovin a compelling case study of the wiles and trials of a Washington lawyer.

For 20 years he has hardly been still. As a young assistant attorney general in the late 1960s, he argued before the Supreme Court the case of Fred Black, a Washington lobbyist whose hotel had been bugged by the FBI. Once in private practice, he sued Richard Nixon on behalf of Common Cause and sued J. Edgar Hoover for tapping the phones and ransacking the garbage cans of the Institute for Policy Studies. He defended Neil Sheehan in the Pentagon Papers case and represented other first-string Washington investigative reporters against government suits. Then, five years ago, in a move that left the liberal circles in town reeling, he took on a job as the counsel for Colby at the lowest point in the agency's history. Since then his dance card has been filled with blockbuster after blockbuster: the successful defense of the Lockheed Aircraft Corporation's former chairman and president against multimillion-dollar bribery charges, which were dropped; the unsuccessful representation of the shah of Iran's sister-in-law in a property arbitration with the shah's twin sister; the housecleaning efforts of the Civil Service Commission; an independent investigation of the Three Mile Island nuclear accident; the unsuccessful defense of the Studio 54 co-owner Ian Schrager. Now, besides representing Anderson, his firm is fighting J.P. Stevens, and he just returned from Turkey and Greece on a citizens' inspection of the NATO forces.

There are signs that his work on behalf of Anderson is being noticed where it counts. "We've been on the defensive on this for two weeks," Democratic National Committee press secretary Robert Neuman told The Washington Post. "I've been fighting brush fires all over the place." In addition, a number of Democratic party leaders have criticized the DNC's

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opposit Sanitized Copy Approved for Release 2010/09/02 : CIA-RDP90-00552R000505290031-8 and ask, the party and a waste of time and money. And there are indications from some liberal Democrats that Anderson's name on the ballot would help them gain re-election.

Said Rogovin, "It's hard for me to believe that John White [Democratic national chairman] and the Carter-Mondale committee would willingly back away. This may drive them underground."

The controversy of this and other assorted cases he has taken on illustrates Rogovin's unquenchable thirst for excitement—his detractors say headlines—and the confidence a spectrum of clients have in him. "Most of my clients have been the underdogs. Yes, there is a certain excitement when the issue is of a national scope. The stakes are higher," says Rogovin.

Hand in hand with this kind of personal reputation, internal drive and professional demands come the prices. In April 1978, following the work for the CIA and the ostracism by many of his old clients and friends, Rogovin, now 49, had a mild heart attack. That hastened his plan to leave the prestigious Arnold and Porter law firm and put his own name on his own door. Now he is seeking to rebound from a soiled reputation, the result of his effort to trade information about alleged cocaine usage by former White House Chief of Staff Hamilton Jordan as a plea-bargaining chip in the Studio 54 case. The deal backfired, the legal tactic made the gossips do handstands, a federal investigation was started, and Jordan eventually was cleared. But Schrager, Rogovin's client, is serving a 3½-year sentence for tax evasion.

"His client in the Studio 54 case could have done better with a Legal Aid Society lawyer," says one detractor. Says a friend: "He made mistakes, it seemed he overplayed his hand, and the whole episode did nothing for his reputation."

When the case is discussed, the outward pacifism of Rogovin becomes a stoic tension, far from uneasiness but packed with ambivalence. He is biting his tongue. "I'm very disappointed. I have known and represented Schrager for about 10 years, before there was a Studio 54, and I was trying to do the best I could for him," says Rogovin. There's a look that says he wants the specter of Studio 54 to go away. The thick eyebrows knit together, the stocky face suddenly takes on age lines, the Burt Lancaster chin dimple deepens. He uses a lullaby tone to sound unconcerned. "In simple form, the government lawyer sought some cooperative information about drug use in Studio 54."

Because he has had two decades on both sides of Washington's power centers, Rogovin is willing to take risks. Carolyn Agger, the tax attorney and wife of former Supreme Court Justice Abe Fortas, noticed Rogovin as a young lawyer at the Internal Revenue Service. "He showed an unusual ability and willingness to take on difficult questions. He's a 'can-do' and 'will-try' person," says Agger.

"One thing I have heard Mitch say, is that when someone comes to him with their problems, he says, 'Now you can

problems are mine now," says Gerald Stern, his law partner and old friend. "He really enjoys the process of law. And he doesn't believe he is overworking."

Always for a Washington lawyer, one of the risks is identification with his client's politics. He steamed after his firing by the Institute for Policy Studies because the left-leaning think-tank regarded him, as he put it, "a lawyer for a cause." He says one of the worrisome political decisions was when he had to decide whether to support his former roommate, Syracuse Mayor Lee Alexander, or former Attorney General Ramsey Clark in an election and he ended up contributing to both campaigns. The Anderson work developed out of their personal friendship, generated by their children. And some see the Anderson connection as one step toward his re-establishment in good favor with the Washington political establishment.

The Extra Beat

In response to Anderson's legal challenges, the Democratic National Committee has launched an expensive counteroffensive. Rogovin demurs on whether the crossfiring makes the case more challenging. "I'm sort of amused that the DNC on one hand would be speaking about the openness of the process and on the other hand would keep an individual off the ballot. It's the ultimate debate. But it's harassing. I think it's an annoyance," says Rogovin. The Anderson team has won one victory already, with a New York court declaring that lower mail bulk-rates for the Republicans and Democrats were unlawful.

Rogovin prefers what he calls "the extra beat."

"When you get up at 5 a.m. because the case is exciting. Walking into the Three Mile Island buildings for the first time."

Or, the morning Rogovin arrived at court with his client, journalist Fred Graham, ready to go to the mat on First Amendment rights. Graham and seven other reporters had been subpoenaed by then vice president Spiro Agnew. The courtroom was packed. And, to the surprise of everyone, the bailiff told the lawyers "another matter would be discussed first." Then Agnew walked in, pleaded guilty to tax evasion, and his career as vice president was ended. So was the need for Rogovin to say anything. "And the judge said to me, 'Do you have anything to add?' I said, 'No sir,' but that was my most exciting morning in court, ever," says Rogovin.

In the lengthy, often esoteric discussions of the Three Mile Island nuclear plant accident, which Rogovin called "the most gripping, riveting story of the spring," Rogovin had the knack of cutting through the ponderous patter. "We had some trouble focusing," said Richard Pollock, a nuclear power critic, director of the Critical Mass Energy Project, and a panel member:

"What do you do if you judge a team inexperienced? Are there utilities that should not run nuclear power plants?" He was provocative."

In the midst of the firm's work on Studio 54 and the Three Mile Island accident (with People magazine popping into NRC offices to snap Rogovin amid the papers), the Legal Times of Washington raised the question about Rogovin's sizable fees, specifically his billing the NRC \$95 an hour for 40-hour work weeks, while continuing what appeared to be substantial work for Schrager. Rogovin said he had cut back on the Studio 54 work at the time. The issue of the fees reportedly raised the ire of Leonard Bickwit, the NRC general counsel. He says no. "Certainly we argued over small expense items. That was my role as the contracting person for NRC. But my feeling throughout was that the cost was worth it," says Bickwit.

Nuclear Nit-Picking

Levity was greatly needed during the scientific debates. Once, during an especially dull session, Rogovin whispered, "I want my money back." At one point the roof of a building the independent investigators were using developed a serious leak, leading to a lot of jokes about a water meltdown. When Rogovin presented the final report, the commissioners and the lawyers had some heated exchanges over the study's conclusion, including a suggestion by Rogovin that the NRC would be more efficient if the agency's offices were all in one place. "Each of you is rapping the table with one finger," said Rogovin, prodding them for their nit-picking.

Rogovin did have some feelings about nuclear power he had to work out. "I found myself reaching for a balance. On one hand I grew up in the generation exposed to the bombs of Hiroshima and Nagasaki and all the publicity that grew out of that. Then the late '40s and '50s nuclear threat from the Russians. So changing from the wartime to peacetime use of nuclear power is a wrench for me. I remember the yellow and black signs of the nuclear shelters," says Rogovin, who also saw the need for the country to have energy self-sufficiency perhaps through nuclear power. All of this caused a debate with his daughter Wendy, one of his three children, who had very strong feelings about the issue.

When William Colby talks about how well he and Rogovin got along, he defines the man: "Well, he had spent some time in the Marines, the IRS. He knew the government."

Rogovin's Marines stint set a pattern for his track record. "When I was in the Marines, I thought when you got

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One medal, you had a leg up to get the next one. This is the same way—you do one of these things and people think of you for the next one." He grew up in New York, working his way through Syracuse University and the University of Virginia Law School. Frederick Ribble, the law school dean, planted many of his early ideas about government, especially through the counseling he gave many of the McCarthy Committee defendants. After four years in the Marine Corps, Rogovin moved to Washington to join the IRS.

It didn't take long for the young lawyer to attract attention. In 1962, he worked on the Bay of Pigs prisoner exchanges by arranging for tax breaks for the companies that provided the exchange materials. Then came the Fred Black matter. "That was the most troublesome case I've ever had. It was so wrenching to the government to go before the Supreme Court and confess. But there was also no question we had to do it," says Rogovin.

His cordiality and ability to diffuse tension with humor is remembered by one lawyer who served under Rogovin, then assistant attorney general. "At one trial, we decided to confess error. The judge got wind of it and said if we did it, we would never win a case before him again. So we all sat down at this highly charged meeting and Mitch came in and said, 'Judge so-and-so will be joining us shortly,' and everyone broke up but developed an esprit de corps that helped the case," recalls the lawyer.

After almost a dozen years in the government, Rogovin joined the firm of Arnold and Porter, specializing in tax cases but also shepherding some of the first public interest groups and law firms into existence. He was there at the creation of Common Cause, the Center for Law and Social Policy, and later, helped with the Council for Public Interest Law. "Around 1970 the Nixon IRS announced there were no more tax exemptions for public interest law. The contributors could not rely on outstanding exemptions. And Mitch fought that very vigorously, especially when he was making most of his money on tax cases," remembers Charles Halperin.

When he signed on with the CIA five years ago, many of these friendships and clients went out the window. Around town there's still a mixture of sadness and bitterness concerning that period of time. "I have always felt kindly toward him. But I did move to fire him. Our main feeling was that his work with the CIA was a conflict of interest," says Marcus Raskin of the Institute for Policy Studies.

"You might note that he graduated into a wheeler-dealer lawyer right after that." Yet, many lawyers understood his work with the CIA, one saying, "He was never a hired gun." Colby remembers a piece of critical advice from Rogovin. "There was an impasse between [Rep.] Otis Pike and me, which might have resulted in a contempt citation. There was already one draft around. And Rogovin suggested,

we go to President Ford. It helped," says Colby.

Since Rogovin's heart attack, says his wife, Sheila, a psychologist, he hasn't slowed down. "But now he puts as much energy into taking care of his life, as his work," she says. From his work with the CIA came a contract for the Civil Service Commission to investigate alleged abuse of the merit system and one discrimination case. He showed he would stick to his guns. Alan Campbell, the chairman of the CSC, recalls confronting Rogovin with printed reports that the investigative team was using a shredder. "He insisted on protecting people who wanted anonymity. And I agree that [shredding documents] was the only way," says Campbell. That study for the government has its critics who call it an ineffective study of the merit system.

The Shadow of Studio 54

The debate continues over whether his Studio 54 tactics cost him some credibility. According to most accounts, Rogovin went to the prosecutors and told them that a high government official had been seen using cocaine at the discotheque. It turned out that the information wasn't the kind the prosecutors wanted to plea-bargain with; they were more interested in allegations about where money from the club's cash register was going. "Rogovin is such a nice guy and so straight-laced that he didn't realize that to a prosecutor in New York a bit of coke is not really a crime," says a lawyer involved in the case. One mistake that Rogovin admits to is not knowing the fine points of the Special Prosecutors Act, which allowed the Justice Department to start an independent investigation of the Jordan charges.

The friction between Rogovin and Roy Cohn, his co-counsel in the Studio 54 case, became juicy grist for the lawyers' gossip mill. Cohn, who enjoys his day in court, had argued against the plea-bargaining and was incensed that the meetings with the federal prosecutors took place while he was in Europe, and eventually leaked the story to the press. Once, after a heated exchange with Rogovin, one of Cohn's friends said, "I don't know why you took all that." Says Cohn, "It's a matter of public record, I disagree with him. The one time we had a very lengthy meeting, he was very assertive, arguing with everybody. I didn't take much umbrage at that." Says Rogovin, "He is extraordinarily good at what he does, but I think our styles are very, very different."

"I thought he [Rogovin] adopted a very good strategy," says Peter Sudler, assistant U.S. attorney for the Southern District of New York. "His motives were traditional. He took a very practical course."

Rogovin has a sense of bounding back. When his then-new law firm was handling its first jury trial, the Scotia mine disaster, representing the families of the 15 men who had been killed, the judge dismissed the trial after three days. "I came back and said we have lost a big one," recalls Stern. "And Mitch said, 'We didn't lose. We just have a deferred victory.'"